HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No. 17783 of 1997

Between

G.Prasad Rao ..Petitioner

AND

The Industrial Tribunal cum Labour Court, Vishakhapatnam and others ..Respondents

:: JUDGMENT ::

Counsel for the petitioner Sri R.N.Reddy

Counsel for the respondents

1.3.2007

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In this writ petition, the petitioner has questioned the Award of the Industrial Tribunal cum Labour Court, Vishakhapatnam (hereinafter referred to as 'the Industrial Tribunal') to the extent it has held that the petitioner is not entitled to reinstatement, but is entitled for the suitable compensation which was quantified at Rs.2,000/-.

The petitioner was appointed by the Andhra Pradesh State Warehousing Corporation, Bobbili as Guard cum Peon on 11.11.1986. His services were terminated on 26.9.1988 which gave rise to I.D.No.55 of 1993 before the Industrial Tribunal. The Industrial Tribunal after examining the petitioner and two witnesses on the Management side and on considering the Exs.M1 to M20 marked on the side of the Management besides W.1 to W.10 marked on the side of the petitioner, held that due to posting of permanent Guards cum Peons and due to the non-availability of work, the petitioner's services were terminated. The Industrial Tribunal however held that the Management failed to comply with the provisions of Section 25 F of the Industrial Disputes Act, 1947 (for short, 'the Act'). Therefore, the Industrial Tribunal while holding that the termination of the petitioner was illegal, however, declined to grant the relief of the petitioner's reinstatement.

Heard Sri R.N.Reddy, learned counsel for the petitioner. No one appeared for the respondent – State Warehousing Corporation.

Sri R.N.Reddy submitted that having rendered a finding that the termination of the petitioner was illegal, it was incumbent upon the Industrial Tribunal to order for reinstatement of the petitioner under Section 11 A of the Act. He submits that the direction to pay a sum of Rs.2,000/- as compensation with a further direction to the Management to consider the petitioner's appointment on daily wage basis whenever the requirement arises in future instead of directing the petitioner's reinstatement, suffers from an error apparent on the face of the record.

Section 11 A of the Act reads as under:

> "11-A: Power of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of Workmen:--
>
> Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct re-instatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:
>
> Provided that in any proceeding under this Section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter."

From the afore-extracted provision, it is clear that a discretion is vested in the Labour Court/Tribunal to grant any relief as mentioned in the provision. The expression "or give such other relief to the workman" vests wide discretion with the Labour Courts/Tribunals in the matter of reinstatement, imposition of punishment etc., It is therefore not incumbent upon the Labour Courts/ Tribunals to direct reinstatement in every case where they found that the termination of the workman was illegal. The Labour Courts/ Tribunals shall exercise their discretion fairly and appropriately and give proper reasons to deny the workman the benefit of reinstatement.

In the instant case, along with the finding that the termination of

the petitioner was contrary to Section 25 F of the Act, the Industrial Tribunal also gave a finding that the termination of the petitioner was on account of the non-availability of work and also on account of appointment of regular Peons/Guards. This part of the finding of the Industrial Tribunal is not questioned in this writ petition. Sri R.N.Reddy, learned counsel for the petitioner fairly has not raised any argument on this finding. Thus, this finding has become final.

I am therefore, of the view that the Industrial Tribunal has given appropriate and cogent reason to deny the petitioner the benefit of reinstatement and awarded compensation in lieu of reinstatement. The Award therefore does not suffer from any error warranting interference of this Court under Article 226 of the Constitution of India.

For the reasons aforementioned, the writ petition is dismissed. No costs.

C.V.NAGARJUNA REDDY,J

1.3.2007.
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